

LEGAL, LEGISLATIVE & SAFETY COMMITTEE/PARKS AND RECREATION
SEPTEMBER 18, 2012
3:30 P.M.

Councilman Murphy, Chairman, called the meeting of the Legal, Legislative & Safety Committee/Parks and Recreation to order with Councilpersons Ladd, Scott, Robinson, Berz, Rico, Gilbert, McGary, and Benson present. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Melinda Foster, Dan Johnson, Larry Zehnder, Greg Haynes, Marie Chinery, Richard Beeland, Danny Thornton, Valerie Malueg, Karen Walsh, Johnny Feagans, Ron Swafford, Chief Parker, Patrick Bobo, and Daisy Madison.

Chairman Murphy called on Councilman Gilbert to chair his portion of the meeting. Chairman Gilbert called on Larry Zehnder, who stated that Chip Baker was to join us, but it would be later in the meeting. Chairman Murphy resumed his portion of the meeting.

AMENDING CODE RELATIVE TO ANIMALS AND FOWLS

On motion of Councilman Rico, seconded by Councilwoman Ladd, the minutes of the previous meeting were approved as published.

Attorney McMahan asked Attorney Foster to come to the podium. She stated that they had been reviewing the Animal Ordinance, deleting it in its entirety and a new version had been given to the Council; they had taken out some duplications and streamlined the Ordinance. She noted that substantive changes were made in regards to exotic animals, such as snakes and reptiles, prohibiting them. Also they had taken away some of the provisions with permits as they were concerned with constitutionality and some of these permits might not be legally sound and should not be regulated through the Ordinance.

Attorney McMahan added that there are ways to regulate and that there should be a City Board as opposed to a non-profit organization. He asked Ms. Foster to cover some of the substantive changes.

Ms. Foster mentioned that residential owners could allow dogs in certain outdoor areas, which is in State Law; they had deleted the kudzu in regards to goats browsing, since there was no demand for this now, and it had fallen by the wayside. She stated that they had cleaned up terms that were no longer definitive and streamlined the Ordinance. She mentioned community cats and a cruelty section, which was more to regulate and did not rise to the cruelty level. They had adopted a provision in regards to City Court and their discretion. The section relating to live animal shows had been deleted. There was a section dealing with the discretion of McKamey, and this had been taken away to apply for all.

Chairman Murphy noted that some Councilmembers wanted to make comments.

Councilman Gilbert stated that they had spoken earlier about an issue that was happening in his district about breeders and barking dogs, and he thought they were trying to deal with this in another arena. Ms. Foster responded that they were putting this in the Zoning regulations, concerning the case he was talking about—that this would be dealt with through zoning.

Councilman Benson stated that these sounded like good changes; that the Council had worked three years on forming this Ordinance and had gone to Knoxville to see what they did. He stated that one of his big questions was the change in the Permit and Licensing process; that we had tried doing this through the City; that HES had done this and then it went to Neighborhood Services and then to the Police Dept.—that this was a big problem. He stated that he had a legal question—“How did Knoxville handle this?”

Attorney McMahan responded that some of the licensing does not have standards; that we are talking about something that does not qualify to issue permits, and it needs to be in another arena—that it can only be a government agency and not delegated to a non-profit agency.

Councilman Benson stated that he thought this was done by Ordinance in Knoxville. Attorney McMahan stated that he would be glad to check this out, but if they were doing this, they were wrong, and we are right. Councilman Benson felt that Knoxville had been doing this for 15 years. Attorney McMahan stated that Ms. Foster will check with Knoxville concerning this.

Councilwoman Ladd stated that she liked the idea of a Board like the Beer Board having authority since this cannot be accomplished by a 501.3c; that she would be very interested in pursuing this; that it was a great idea. She went on to say that she had heard from Judge Paty, and they had seen these changes only one hour prior to the 3:00 meeting, and she was concerned and so was Judge Bean; that they would like to share comments in an agenda session and did not want this to move forward without their input.

Councilwoman Berz thanked them for their hard work, stating that she appreciated their cleaning up the regulations. Her question was for the City Attorney—“The function they were performing needed to happen, but the question was, whether it was legal or not?” She questioned how we could vote something out with nothing in to take its place as far as regulations.

Attorney McMahan asked to be given a month to finish their research.

Councilwoman Berz stated that we could go forward with a Board and then have it tightened—that animal abuse is big and very serious, and we needed to give attention to this.

Councilman McGary asked if these two conversations should not be concurrently discussed—if we are going to limit powers in a vacuum, we should have something in place or a Board.

Chairman Murphy stated that he had been reviewing some e-mail history; that such a Board had been before the Council in February of this year; that another extended reason that we need to clear this up is that another municipality is waiting to see what we will do. He stated that the two conversations are separable; that what is important is to move forward to the extent we can now; that the two can be dealt with separately.

Councilman McGary asked in the interim, what happens to the power being removed? Attorney McMahan explained that what was in there before is not in there today.

Karen Walsh explained that the bulk of permits we are dealing with are for breeders and rescue organizations; that they would be drafting something very soon concerning adding multiple pets with a fee.

Chairman Murphy asked about things like the circus. Ms. Foster stated that this would be considered a live animal performance.

Ms. Walsh noted that they were good until the end of the year with permits.

Chairman Murphy thanked them.

Councilwoman Scott wanted to know who would be point person to look into the establishment of a Board? Attorney McMahan responded, either himself or Ms. Foster. She questioned if different stakeholders should not put this together—people in the community with expertise? Attorney McMahan agreed that these were the type of people needed on this Board.

Councilman McGary asked about the timeline with the Judges—if they were making their presentation for the first time next week. He wanted to know if any effort had been made in getting their input? He noted that this was on the agenda for next week and wanted to know if there were any efforts to incorporate their thoughts? Chairman Murphy added that this would broaden their discretion and not confine it. Ms. Foster added that the Courts might declare a dog dangerous—that we did not want to impinge on their judicial discretion. Councilman McGary asked if the Judges could contact her or would she contact them? Ms. Foster stated that she had sent them the changes, and they could contact her if they had questions or comments.

AGREEMENT WITH FRIENDS OF THE FESTIVAL

On motion of Councilman McGary, seconded by Councilwoman Ladd, the minutes of the previous meeting were approved. Chairman Gilbert called on Adm. Zehnder.

Mr. Zehnder thanked the Council, noting that **Resolution (c)** is on tonight's agenda to enter into an agreement with Friends of the Festival for management of the 21st Century Waterfront, in the amount of \$40,000.00; that they had gone through a process and selected Friends of the Festival. He noted that this same sort of oversight is going on across the nation for special events and are big business in a city and tourist areas—that special events excite communities. He went on to say that if he had the Staff, he could do this, but it would have to be put in the budget, and a contract with a non-profit group is the best way to go. He mentioned that Norfolk has an active waterfront and spent \$1.8 million dollars a year on Special Permits; that Nashville and others are doing Special Events with a fairly significant bill. He stated that in Chattanooga we have a lot of non-profit program events on the downtown waterfront, which is an anomaly—that this saves taxpayers money. He stated that this was the change that they had suggested; that the waterfront was developed in 2005 and RiverCity was in control; that in 2006 this was covered by Friends of the Festival and was formalized in 2008. He noted that this does not include Riverbend; that we have 30 major events on the waterfront. He stated that he could go through the Agreement paragraph by paragraph or he could give a summary of the changes; that he had detailed information on the revenue. He stated that Chip Baker was prepared to do an overview with a slide presentation. He provided copies of the Agreement.

He stated that changes in the Agreement were not major. He mentioned the amphitheater under Riverside Drive. He stated that another change relates to Part (j) where Friends of the Festival will provide all the duties in the application process and will assist us in seeing that the parks are returned to the City without damage. Friends of the Festival will handle all license agreements and proof of insurance. He stated that they had been doing this, but it had not been in the agreement. Paragraph 6 relates to payment to Friends of the Festival in the amount of \$40,000, which will later go to \$45,000 and then to \$50,000. He noted that Friends of the Festival had had no increase since 2006, and this amounts to 2% a year. In regards to user fees, no venue fees will be charged to the RiverCity Co.; that on property belonging to RiverCity, no fees will be charged. Paragraph 9 relates to vendors—this had been added because there had been confusion citywide concerning vendors. This was put in the Waterfront District to help clarify. Paragraph 11 concerning city events states that Friends of the Festival will assist the City with the events conducted by us and our folks. He stated that these were really the basis of the major changes—that the most significant was the change in fees.

Councilman McGary thanked Mr. Zehnder for walking the Council through this, stating that it helped him conceptualize. He asked if any attention had been given in the Contract due to something that was not working? Mr. Zehnder responded that it was mostly clarification—that

it was mutually beneficial for us to work closely together—that this was a good agreement; that the fee change was the only one for consideration.

Councilwoman Berz asked about the Project Management Fee for certain specified events? Adm. Zehnder responded that the events were mainly non-profit and were not necessarily specified events on the riverfront. Councilwoman Berz indicated that she had heard two concepts—some are specified events and they are available to do other events. She asked if the “other events” would be for more money? Adm. Zehnder responded that there are 30 events—that there may be more—it could be 35 or even 40 but right now we are dealing with 30 events and smaller events—that the 30 are large events, and they handle smaller events; that it is calculated that we handled 190 events on the riverfront. Councilwoman Berz noted that they have a contract with us for \$40,000, then \$45,000 and then \$50,000. She wanted to know what this money covers? Adm. Zehnder responded that it all comes under major events—that it is a flat fee for 40 events to 100 events. She asked if they were available to do more, with more work, would there be additional funds? Adm. Zehnder responded “not from the city”. Councilwoman Berz noted that the Friends of the Festival do a good job, wanting to know if the City cleans up and handles security? Adm. Zehnder responded that it was a cooperative venture—that clean-up was more of a partnership. She asked if there was a fee attached to this? She wanted to know if it were costing the city—that she was a little unclear—was it \$40,000 plus all the support services? Adm. Zehnder explained that with each event there is a \$500 deposit; they pay the fee and there is a returned deposit if the park is in good condition and Mr. Baker makes sure of that.

Mr. Baker stated that he thought he could put everything into perspective with his overview.

Councilwoman Berz was concerned with the City’s additional contribution with safety and clean up.

Mr. Baker explained that if the place was not quite cleaned up that Mr. Zehnder gets with him, and they work it out—that it is a system of checks and balances; that he thought everything would make more sense once he went through his presentation.

Councilwoman Berz asked Mr. Baker if he and his Board had more big events that the \$40,000 did not cover, would they charge more? Mr. Baker reiterated that this is a flat fee, again stating that he would love to show his video.

Councilman McGary mentioned that Adm. Zehnder had indicated that the waterfront excludes the Riverbend Festival; that Friends of the Festival is the organization putting on the event. He wanted to know if they could manage both at the same time? Mr. Baker responded that that is what they do with the Riverfront Agreement—that they make it pay. Councilman McGary again inquired if they could both manage and put on other events simultaneously? Mr. Baker responded “yes”, we do both—that it is part of the agreement.

Mr. Baker began his presentation, stating that he would give a quick background; that before 2006, there was nothing in place, and they reached out to their peers; that they had great colleagues; that they reached out to their peers first in regards to programs, fee structure, and logistics; that a Steering Committee was created to make sure there was a “fit” for the waterfront. He gave examples of some of the on-going events, stating that they worked as a team; that all city departments and Friends of the Festival were included in this. He went on to say that as they did their events, garbage piled up; that Parks and Recreation were included in the process; that they had to get certification of insurance and deposits—that this goes to an execution committee and then to the Steering Committee, and the details are complete. It then goes to Parks and Recreation, the promoters, and the City Attorney. As stated earlier, they had nothing to begin with. He stated that all of this was just some of the things they could do to help to bring people to the waterfront at no cost to the city; that they did the garbage pickup themselves—from beginning to end. He went on to talk about waterfront vending in 2007, which was done through their office—that they had a bunch of equipment that they loaned out. He stated that they had 5500 volunteers at their disposal and ten full-time people and would like to have an adjustment; that between the city and themselves, there were 178 years of experience. He stated that they tried new things and then moved to others if the new things did not work. He mentioned an upcoming BBQ event with Kansas City BBQ; that Amy Morrow works with different folks. He stated that he thought they were dedicated, and this was their 32nd year—that experience and resources are important; that one of the things with the biggest impact was the “Flow Chart”. He noted that they had four events that closed the streets—that they had to be mindful of not closing Riverfront Parkway—that they were open to all ideas.

Councilwoman Scott thanked Mr. Baker for coming, stating that he had given an interesting presentation. In talking about Riverbend, she wanted to know who pays for utilities and the traffic people who direct for this event. In all events, she wanted to know who pays—if it were the person having the event or the City putting up the money? Mr. Baker responded that it was a combination—depending on whom is putting on the event—that we would talk about Riverbend later.

Adm. Zehnder noted that water is difficult to meter—that it is usually not billed to various groups; that the electric bill goes to Friends of the Festival; that in other events, the City controls the money to help pay.

Councilwoman Scott asked about the overtime involved in police directing traffic? Adm. Zehnder responded that there is very little overtime outside of Riverbend; that she could ask the Police Dept. this question.

Mr. Baker noted that actually, the Police Department had an Events Manager—Mr. Garrett.

Councilwoman Scott stated that this seems well run but wanted to know who is paying the bills? Adm. Zehnder responded that the Steering Committee is made up of City Departments—that what we are addressing today is the Waterfront events. She responded that she was asking specifically for this, mentioning Section 7—percent of fee revenue for animation and street performers. Adm. Zehnder responded that it was set up in the beginning—that animation and events on the waterfront was a goal—that he did not know how to pay for animation—that from 2008 to 2012, there had been very little animation—that this just gives us the opportunity to elect it or not. Councilwoman Scott wanted to know where the money goes? She mentioned liability insurance and could it be waived—that she was not clear from the City's perspective of being sued. She wanted to know how it is if liability exists and one person is injured. She wanted to know how it could be waived over 12 up to 1,000 and why there was discretion concerning this?

Adm. Zehnder responded Friends of the Festival has up to \$1 million dollars—that this agreement came from the City Attorney's Office—that a group could be small with little assets—that there would be more risks with larger events.

Attorney McMahan explained that when dealing with larger groups, they have to buy insurance—that family reunions or weddings were very different and hard to process insurance; that people use the Heritage House, and it is not practical to require them to acquire insurance. Adm. Zehnder added that events changed the level of insurance.

Councilwoman Scott stated that she was asking to not leave it to discretion—that an injury is an injury.

Councilman Benson noted that the Riverbend Festival is the most attended and brings in more money to the City and the County—that it is divided with the County and is a benefit to the County and Convention and Visitors' Bureau. He wanted to know if Hamilton County is helping out? Mr. Baker responded that there had been a discussion on Riverbend; however today we are talking about the waterfront, asking if the question is "How much is Hamilton County giving?"

Adm. Zehnder responded that if additional expenses are incurred that for every \$1.00 we are getting, 50% is from the County.

Chairman Murphy wanted to address the cost of security for special events, etc. and taxpayers' dollars—that we don't charge the organizers; that we work with the Police Dept., and it is an assignment; that with the exception of Riverbend, it is highly unlikely that there will be overtime; that it is not full-time employees. He stated that he thought it was a very smart thing that we do and would be in opposition to us changing any of this; that with regards to discretion and liability on the premises, faults exist; that he did not think discouraging smaller groups from having events was the way to go; that we should continue with discretion.

Councilwoman Robinson stated that she would like to go back to the whole notion of what we are doing as a city—that we created a 20-Year Master Plan to encourage at the onset the use of the riverfront by our citizens; that we use the tax dollars the citizens are paying to build out the whole attraction for local people—that it is important to our quality of life and gets people out of neighborhoods to celebrate our diversity; that Riverbend had made us the community we have become—that this is our event and belongs to all of us; that people had been scared to come downtown; that this is a unique Chattanooga success; that the Waterfront Plan is what we built and want the Friends of the Festival to be our stewards, and they are doing a great job for the same price, which is a bargain; that we are doing the right thing.

In looking at the Chart, Councilman McGary asked about Friends of the Festival staff people being present? Mr. Baker responded that some events required them to be there all the time—that they help them with questions about electric power and water; that they are there to see if there are issues they need help with; that they know what they are doing if no one from their staff is down there; that they charge \$20.00 an hour and are there as needed.

Chairman Gilbert thanked Mr. Baker and Adm. Zehnder.

Adm. Zehnder added that he had more detailed information—that he had a tabulation for four years. He went on to say that we are getting a “heck of a deal”; that he thought Friends of the Festival makes a good service of what we are doing for our citizens—that they are a good partnership; that things can always be improved; that every weekend there should be something happening in our city; that when you have people on the streets, it is a great city; that people are asking us how we are doing this.

This meeting adjourned at 4:45 P.M.